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'09 SEP -4 P2:05

SMITH, JAMES J.  
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LAS VEGAS, NEVADA 89109

UNITED STATES BANKRUPTCY COURT  
9<sup>TH</sup> DISTRICT OF NEVADA  
300 S. LAS VEGAS BLVD, LAS VEGAS, NV 89101

U.S. BANKRUPTCY COURT  
MARY A. SCHOTT, CLERK

In Re

JAMES J. SMITH

Debtor

BANKRUPTCY NO.: BKS-09-11737-LBR

**MOTION TO VACATE DISMISSAL ORDER**

The undersigned debtor declares under penalty of perjury that the following circumstances are the reason the Debtor requests this Court to Vacate the Dismissal Order.

I did not qualify to complete the Chapter 13 Bankruptcy Plan required by the Bankruptcy court.

Those circumstances include:

In February the debtor filed for chapter 13 Bankruptcy at the advice of his attorney, Randolph Goldberg.

I made my attorney aware before we filed the bankruptcy that I was not at that time employed. I ha been laid off from my job due to the elimination of my position in February, 2009. At that time I was given a severance of \$12,500.00.

On March 3<sup>rd</sup>, 2009, there was a Trustee's Opposition to Confirmation of Plan 1 Combined with Trustee's Recommendation for Dismissal filed in the Court.

The reason for the Opposition and Dismissal Recommendation was that the Debtor had not commenced payments with the trustee and the Debtor did not have the regular income sufficient to pay the payments set up by the plan.

The Debtor request that I be granted this Motion to Vacate the Dismissal Order so it is possible to reopen my case and thereby convert it to a Chapter 7.

DATED: 9/4/09

  
JAMES J. SMITH - DEBTOR

DATED: \_\_\_\_\_

\_\_\_\_\_  
- CO-DEBTOR

IN PROPER PERSON(S)